

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
PENNSYLVANIA STATE POLICE	)	WT Docket 99-87
	)	
Request for Waiver of Section 90.209(b) of the	)	
Commission's Rules	)	

**ORDER**

**Adopted: November 9, 2012****Released: November 9, 2012**

By the Deputy Chief, Policy and Licensing Division, Public Safety and Homeland Security Bureau:

**I. INTRODUCTION**

1. On January 25, 2012, the Pennsylvania State Police (PSP) submitted a request for waiver<sup>1</sup> of the Commission's VHF/UHF narrowbanding deadline, which requires private land mobile radio licenses in the 150-174 MHz and 450-512 MHz bands to operate using channel bandwidth of no more than 12.5 kHz, or equivalent efficiency, by January 1, 2013.<sup>2</sup> PSP seeks a one-year extension of the narrowbanding deadline until and including December 31, 2013.<sup>3</sup> By this *Order*, we grant the request.

**II. BACKGROUND**

2. PSP began its migration from a legacy VHF system to an 800 MHz system, known as the Pennsylvania Statewide Radio Network (PA-STARNET), in 2006 and completed a statewide upgrade to the 800 MHz system as its primary dispatch and communications system in 2010.<sup>4</sup> According to PSP, however, site selection and acquisition issues, along with vendor

---

<sup>1</sup> See Request for Waiver of Commission Rules, filed January 25, 2012, by the Pennsylvania State Police (Waiver Request). See also Update Regarding Request for Waiver of Commission Rules, filed August 17, 2012, by the Pennsylvania State Police (Update); Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended; Promotion of Spectrum Efficient Technologies on Certain Part 90 Frequencies, *Third Memorandum Opinion and Order and Third Further Notice of Proposed Rule Making and Order*, WT Docket No. 99-87, 19 FCC Rcd 25045 (2004).

<sup>2</sup> 47 C.F.R. § 90.209(b)(5). Licensees in the T-Band (450-512 MHz) are exempt from the narrowbanding requirement, effective April 26, 2012. See Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau Suspend the Acceptance and Processing of Certain Part 22 and 90 Applications for 470-512 MHz (T-Band) Spectrum, *Public Notice*, 27 FCC Rcd 4218 (WTB/PSHSB 2012).

<sup>3</sup> Update at 1. PSP originally sought a two-year extension, but later amended its request to a one-year extension.

<sup>4</sup> *Id.* at 2, 3.

hardware and software problems have prevented PSP from fully evaluating the performance of the new 800 MHz system by the Commission's January 1, 2013 narrowbanding deadline.<sup>5</sup>

3. PSP states that its 800 MHz system is incomplete and experiences most outages in areas where rough terrain inhibits construction of fully hardened sites.<sup>6</sup> PSP has added fully hardened 800 MHz sites over the past few years to increase interoperability, and 217 of such sites currently provide coverage to 85 percent of Pennsylvania's total land area.<sup>7</sup> PSP wishes to retain its legacy VHF system until the 800 MHz PA-STARNET system is fully tested.<sup>8</sup> In 2011 PSP and the Pennsylvania Office of Public Radio Services (OPRS) evaluated the feasibility of maintaining the current VHF system on an interim basis.<sup>9</sup> Because its existing VHF radio system consists of 2,500 mobile units, 1,200 portable units, 80 dispatch systems, and 109 VHF base stations,<sup>10</sup> PSP and OPRS determined that it would be cost-prohibitive to completely narrowband the statewide VHF system, given that PSP plans to decommission this system once the 800 MHz PA-STARNET system is completed.<sup>11</sup> Accordingly, PSP seeks a waiver to continue to use its existing VHF system beyond the Commission's January 1, 2013 narrowbanding deadline, until its 800 MHz system is fully operable on December 31, 2013.

4. At the time PSP filed its Waiver Request, in January, 2012, PSP had already developed the fundamental system requirements for PA-STARNET, which consists of 248 high profile radio tower sites and 739 microcell sites, with 44 more sites in the design stage.<sup>12</sup> Since then, PSP has improved its VHF system by purchasing some narrowband-compliant mobile radios and dispatch equipment, and has secured narrowband emission designators for its licenses. It estimates that these improvements to the VHF system will be complete by the end of 2012.<sup>13</sup> PSP also included funding for narrowband-compliant equipment in its budget for Fiscal Year 2012-2013.<sup>14</sup>

5. PSP does not anticipate any negative effects on other licensees if its waiver request is granted.<sup>15</sup> PSP argues that, absent the challenges it faced in implementing a complex, statewide 800 MHz system, it would not have required the requested waiver.<sup>16</sup> PSP also argues that denying the waiver would punish a licensee that has made good-faith efforts to accomplish the Commission's objectives.<sup>17</sup> Lastly, PSP claims that denial of a waiver would be detrimental to its State Troopers and Pennsylvania citizens as a whole.<sup>18</sup>

---

<sup>5</sup> *Id.* at 3.

<sup>6</sup> *Id.* at 4.

<sup>7</sup> *Id.* at 4.

<sup>8</sup> *Id.* at 3-5.

<sup>9</sup> *Id.* at 5.

<sup>10</sup> *Id.* at 1.

<sup>11</sup> Waiver Request at 2, 5.

<sup>12</sup> *Id.* at 3.

<sup>13</sup> *Id.* at 5; Update at 1.

<sup>14</sup> Waiver Request at 6.

<sup>15</sup> *Id.* at 7.

<sup>16</sup> *Id.* at 9.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

6. On January 27, 2012, the Public Safety and Homeland Security Bureau issued a Public Notice seeking comment on the Waiver Request.<sup>19</sup> No party filed comments in support or opposition.

### III. DISCUSSION

7. PSP seeks relief pursuant to Section 1.925(b) of the Commission's rules, which provides that, in order to obtain a waiver of the Commission's rules, a petitioner must demonstrate either that: (i) the underlying purpose of the rule(s) would not be served or would be frustrated by application to the present case, and that a grant of the waiver would be in the public interest;<sup>20</sup> or (ii) in view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.<sup>21</sup>

8. The Wireless Telecommunications Bureau, the Public Safety and Homeland Security Bureau, and the Office of Engineering and Technology stated in the jointly issued *Narrowbanding Waiver Guidance Notice*, that "requests for waivers of the deadline (under § 1.925) will be subject to a high level of scrutiny."<sup>22</sup> The notice suggests factors for licensees to include in a request for a waiver.<sup>23</sup> In addressing those factors, the notice specifically recommends that licensees explain how: (i) they have worked diligently and in good faith to narrowband their systems expeditiously; (ii) their specific circumstances warrant a temporary extension of the deadline; and (iii) the amount of time for which a waiver is requested is no more than is reasonably necessary to complete the narrowbanding process.<sup>24</sup>

9. Based on the facts before us, we find that PSP warrants waiver relief because it has demonstrated that the underlying purpose of the narrowbanding rule—promoting efficient spectrum use—would not be served or would be frustrated by application to the present case, and that a grant of the waiver would be in the public interest.<sup>27</sup> In reaching this decision, we find that PSP has exercised due diligence and shown good faith in its effort to migrate from its VHF system to the 800 MHz PA-STARNET system.<sup>25</sup> We also recognize that this transition was hindered by hardware and software issues with the 800 MHz system and that geographic constraints have hindered its overall migration efforts, thus justifying a temporary extension of the narrowbanding deadline.<sup>26</sup>

---

<sup>19</sup> See Public Safety and Homeland Security Bureau Seeks Comment on Requests for Waiver of the January 1, 2013 VHF-UHF Narrowbanding Deadline, *Public Notice*, 27 FCC Rcd. 430 (PSHSB 2012).

<sup>20</sup> 47 C.F.R. § 1.925(b)(3)(i).

<sup>21</sup> § 1.925(b)(3)(ii).

<sup>22</sup> Wireless Telecommunications Bureau, Public Safety and Homeland Security Bureau, and Office of Engineering and Technology Provide Reminder of January 1, 2013 Deadline for Transition to Narrowband Operations in the 150-174 MHz and 421-512 MHz Bands and Guidance for Submission of Requests for Waiver and Other Matters, *Public Notice*, 26 FCC Rcd. 9647, 9648 (PSHSB, OET, WTB 2011) (*Reminder and Guidance Notice*).

<sup>23</sup> *Id.* at 9649.

<sup>24</sup> *Id.*

<sup>27</sup> See 47 C.F.R. § 1.925(b)(3)(i).

<sup>25</sup> Waiver Request at 3.

<sup>26</sup> *Id.* at 4.

10. We also find that grant of the waiver is in the public interest, as it will provide PSP with a reasonable amount of time to complete its ongoing narrowbanding process via migration to the 800 MHz PA-STARNET system, while allowing the existing VHF system to maintain interoperability without adversely affecting other licensees.<sup>27</sup> We also find that PSP's request for an extension of the deadline by one year is warranted because it is no longer than is reasonably necessary to complete the transition to its 800 MHz system.<sup>28</sup>

#### IV. CONCLUSION

11. Based on the foregoing, we conclude that granting the requested waiver is in the public interest. Accordingly, we grant PSP a waiver of the Commission's January 1, 2013 VHF/UHF narrowbanding deadline, until and including December 31, 2013, for the call signs set forth in Appendix A.

#### V. ORDERING CLAUSES

12. Accordingly, IT IS ORDERED pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.925(b)(3)(i) of the Commission's rules, 47 C.F.R. § 1.925(b)(3)(i), that the Request for Waiver of Commission Rules filed by the Pennsylvania State Police IS GRANTED.

13. We take this action under delegated authority pursuant to Sections 0.191 and 0.392 of the Commission's rules, 47 C.F.R. §§ 0.191 and 0.392.

FEDERAL COMMUNICATIONS COMMISSION

Zenji Nakazawa  
Deputy Chief, Policy and Licensing Division  
Public Safety and Homeland Security Bureau

---

<sup>27</sup> Waiver Request at 7.

<sup>28</sup> Update at 1.

**Appendix A: List of Affected Call Signs****Pennsylvania State Police VHF Call Signs**

KAP963	KXH325	KXH355	KXH385	WPAR858	WYF420
KB46156	KXH326	KXH356	KXH386	WPD1891	WYF421
KDN501	KXH328	KXH361	KXH387	WPDM594	WYF422
KLE766	KXH329	KXH362	KXH388	WPDX281	WYF423
KM2926	KXH330	KXH363	KXH389	WPFA965	WYF424
KN6259	KXH331	KXH364	KXH390	WPGX918	WYF426
KN9796	KXH332	KXH365	KXM889	WPJP607	WYF427
KNNG311	KXH333	KXH366	KXM890	WPJP609	WYF428
KNNG312	KXH334	KXH367	KXM891	WPKU625	
KNNG313	KXH335	KXH368	KXM893	WPTB419	
KNNG314	KXH336	KXH370	KXO901	WQGL628	
KSK964	KXH337	KXH371	KXO903	WQGL629	
KSO688	KXH338	KXH372	KXO906	WQGL632	
KSO710	KXH339	KXH373	KXO915	WQGL634	
KSO727	KXH340	KXH375	KXO921	WQGL635	
KXH312	KXH342	KXH376	KXO922	WQGL636	
KXH315	KXH343	KXH377	KXO932	WQGL638	
KXH316	KXH344	KXH378	KXU261	WQGN636	
KXH317	KXH345	KXH379	KZC557	WQHA456	
KXH318	KXH346	KXH380	KZC686	WQHX837	
KXH319	KXH348	KXH381	WDQ898	WQIE564	
KXH320	KXH351	KXH382	WNWP460	WQJS621	
KXH321	KXH352	KXH383	WNYZ968	WQKR950	
KXH322	KXH353	KXH384	WNZN651	WYE866	